



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

September 6, 2023

Re: FOIA Request NLRB-2022-001149

Dear Jennifer Ortega (Ulman Public Policy):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on May 10, 2022, in which you initially sought "All records related to David Prouty's recusal from Board matters, including but not limited to cases involving the Service Employees International Union (SEIU) and their local affiliates, within the files of the Board members and their staffs, the Office of Congressional and Public Affairs, the Ethics Office, Division of Advice, Division of Legal Counsel, Executive Secretary, Office of the Inspector General, and the Office of the General Counsel," and specified "the timeframe for the request is December 8, 2021 to the present." You assumed financial responsibility for the processing of your request in the amount of \$200.00.

We acknowledged your request on May 10, 2022. Concerning your request for records from the Office of the Inspector General (OIG), your request was forwarded to that office for separate response and was assigned as NLRB-OIG-2022-001157. The OIG provided you with its determination on May 16, 2022.

In an email communication with a member of the FOIA staff on June 1, 2022, you agreed to limit the requested records to just email communications. In another email communication with a member of the FOIA staff on June 12, 2023, you further agreed to limit the request to seek only communications with parties external to the National Labor Relations Board.

Pursuant to the FOIA, a reasonable search of the Agency email accounts for the heads of the offices of the Board Members, the Board Chairman, the Executive Secretary, the Office of Congressional and Public Affairs, Ethics, the Division of Advice, Division of Legal Counsel, and the Office of the General Counsel, was conducted, using Microsoft Purview, to find any emails sent to or from parties external to the National Labor Relations Board related to David Prouty's recusal from Board matters for the time period from December 8, 2021 to May 11, 2022 (the date of the search). This search yielded 62 pages of responsive, releasable records, which are attached. No information has been redacted or withheld. Accordingly, your request is granted.

For the purpose of assessing fees, we have placed you in Category A, commercial use requester. This category refers to requests “from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation.” NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(v). Consistent with this fee category, requesters are typically assessed charges to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. 29 C.F.R. § 102.117(d)(2)(ii)(A). Charges are \$9.25 per quarter-hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

Thirty minutes of professional time was expended reviewing for release the requested material. Accordingly, please remit \$18.50.

Payment Instructions: We are no longer accepting checks or money orders as payment. To submit payment for your FOIA request, please use www.pay.gov. From the www.pay.gov home page, scroll down to the bottom left corner to select “Pay a FOIA Request.” Click “See all options” and go to “Filter By Agency” to check the box for the National Labor Relations Board. Continue following instructions on the website. Please remember to include the Invoice Number, which is the NLRB FOIA Case No., and the amount you intend to pay. Further, please be advised that all FOIA payments must be paid in full before any future FOIA requests are processed.

You may contact William T. Hearne, the FOIA Attorney/Advisor who processed your request, at (202) 273-0139 or by email at william.hearne@nrlb.gov, as well as the Agency’s FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Specialist or Attorney-Advisor, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the FOIA Public Liaison is:

Kristine M. Minami, FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records

Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt, Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nrlrb.gov

Any appeal must be postmarked or electronically submitted within 90 calendar days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Specialist, Attorney-Advisor, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ Kristine M. Minami

Kristine M. Minami
Acting FOIA Officer

Attachment: (62 pages)